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**Written Testimony Opposing  
Proposed Bill No. 637  
An Act Concerning the Use of Traffic Enforcement Photographers to Record  
the Illegal Use Mobile Telephones By Motor Vehicle Operators.**

Good morning Senator Maynard, Representative Guerrero and members of the Transportation Committee. I am David McGuire, staff attorney for the American Civil Liberties Union of Connecticut. Please accept this written testimony in opposition to Raised Bill No. 637, An Act Concerning the Use of Traffic Enforcement Photographers To Record the Illegal Use of Mobile Telephones by Motor Vehicle Operators.

I applaud the committee and the state for continuing to take on the issue of distracted driving. Advances in technology throughout the past decade have resulted in increased use of mobile electronic devices by operators of motor vehicles, which has led to more distracted drivers on the roadways. Similarly in the past decade, there have been significant advances in law enforcement and surveillance technology. We must be careful, however, to apply technological advances within constitutional limits. The use of high-powered cameras to photograph the interior of a vehicle violates individual privacy and exceeds what is necessary to enforce the distracted driving laws set forth in C.G.S. § 14-296aa.

The text messages, emails and images that appear on a cell phone screen are indisputably private, and the expectation of privacy increases inside one's personal vehicle. It would be a stretch to assert that a significant number of people would not feel their privacy has been violated when a government official uses a high-powered camera to take a picture of their cell phone screen in their personal vehicle.

Furthermore, due consideration must be given to the privacy interests of passengers in the vehicle as they, too, have a reasonable expectation of privacy in the contents of their cell phone screen. Unlike the case of the distracted driver, the state has absolutely no interest or need to use photography to determine whether or how a passenger is using a mobile device. Accordingly, we believe that proper safeguards should be in place to protect the privacy interests of any passengers in the vehicle.

Unfortunately, the bill is silent as to any potential safeguards that might address this concern.

This bill has several practical deficiencies. “Traffic enforcement photographer” is not defined and it is unclear whether individuals acting in this capacity would be properly trained sworn officers or private contractors. This triggers additional privacy concerns regarding data integrity, including where the images are stored and how long images will be maintained. The lack of a clear data retention limit is troubling. The images should not be kept longer than necessary to determine whether there was a violation of the distracted driver laws.

Officers can enforce the provisions of the distracted driver laws without this bill. The National Highway Transportation Safety Administration awarded \$200,000 grants to Hartford and Syracuse to conduct and evaluate a high-visibility enforcement model aimed at distracted driving. Hartford used a less intrusive spotter technique. This commonly used method utilized an officer who acted as a spotter and radioed to another officer upon seeing illegal mobile phone use. Syracuse used roving patrols and a “sneak-and-peek” method involving high-riding vehicles. This higher vantage point allowed officers to see into other vehicles. As a result of these enforcement efforts Syracuse saw a 40% drop in handheld cell phone use while Hartford saw a 57% reduction in cell phone use.<sup>1</sup> These statistics provide evidence that the less intrusive spotter technique is more or equally effective at combating distracted driving than more invasive “sneak-and-peek” method used in Syracuse. The means of surveillance in this bill would be even more intrusive than the already intrusive “sneak-and-peek” method used in the Syracuse trial.

As an alternative to taking high-resolution images of an individual’s cell phone screen, law enforcement can continue to rely on certain tell-tale indicators of distracted driving when looking for the requisite probable cause to stop a motorist for a violation of the distracted driver laws. These indicators include driving slowly, weaving and looking down toward the floor. Another component that we could borrow from the 2010 study is to implement a high-visibility public awareness campaign, similar to “Click It or Ticket,” which will educate the public about increased enforcement efforts pertaining to distracted driving.

This bill raises more questions than it answers. In sum, this bill attempts to implement an unnecessary and unprecedented program to enforce the distracted driver laws when the state already has means available to it that would better advance that goal. The ACLU-CT urges this committee to reject Proposed Bill 637.

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<sup>1</sup> OLR Backgrounder: Connecticut Anti-Texting Initiatives, 2013 R-0096